

REMARKS

Claims 11-27 are pending. Claims 13-20 are withdrawn. Claims 11, 12, and 21-27 are rejected.

Applicants respectfully request withdrawal of the finality of the rejection. The Examiner states at p. 4 "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, this action is made final." However, Applicants did not amend the claim in their most recent Action. In addition, the Examiner's current action applies two new references; all previous references have been overcome.

Applicants respectfully request consideration as follows.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

Claims 11, 12, and 21-27 are rejected under 35 U.S.C. §103(a) as obvious over Cuttitta in view of Pandurangi.

Applicants respectfully disagree. Applicants' method is directed to and recites "a phototherapeutic procedure". The result of Applicants' method is photoexcitation, specifically, photoexcitation of the Ar and N₃ components, to phototreat the target tissues.

In contrast, Cuttitta's method uses a compound to produce a monoclonal antibody to detect autocrine growth factor by binding to bombesin or bombesin-like peptides. Cuttitta's method is thus directed to a therapeutic treatment for small cell lung cancer by blocking binding of bombesin or bombesin-like peptide to receptors present on small cell lung cancer cells. See Cuttitta Abstract; col. 1 lines 14-16; col. 2 lines 42-44; col. 8 line 20 to col. 9 line 10, and claim 1. Cuttitta provides no suggestion, motivation, or teaching for a phototherapeutic procedure.

The Examiner applies Pandurangi, stating

Cuttitta et al does not disclose conjugating the bombesin with an aryl azide. Pandurangi et al teaches the photoaction of aryl azide compounds to produce singlet nitrenes for phototherapeutic uses.

Applicants respectfully assert that this characterization is inaccurate, and that Pandurangi does not supply the teaching that is lacking in Cuttitta to result in Applicants' method. Pandurangi teaches perfluoroaryl azides "capable of complexing transitional metals" and producing photolabile chelating agents. Pandurangi's Discussion section, to which the Examiner cites, refers to *in vitro* photolabeling and photolysis. Pandurangi's compounds that are photolabile chelating agents are "for the development of highly efficient CH insertion molecular probes". These are not the same as the compounds Applicants use in their method for type 1 phototherapy, where the aryl nitrene portion of the compound actually treats the target tissues.

For at least these reasons, Applicants respectfully assert that Cuttitta in view of Pandurangi does not render claims 11, 12, and 21-27 obvious, and request the rejection be withdrawn.

CONCLUSION

The application is believed to be in condition for allowance with no fees due. If fees are deemed necessary, the Office is authorized to charge them to Deposit Account No. 20-0809.

The Examiner is invited to contact Applicants' undersigned representative with questions.

Respectfully submitted,
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